

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

SAGENT TECHNOLOGY, INC
Plaintiff

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CIVIL ACTION JFM-02-2505

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vs.

Baltimore, Maryland

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MICROS SYSTEMS, INC.
Defendant

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January 22, 2003

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Deposition of SCOTT CALLNIN, a witness of

lawful age, taken on behalf of the Plaintiff in the

above-entitled cause, pending in the District Court of

the United States for the District of Maryland, before

Dawn L. Venker, a Notary Public in and for Baltimore

County, Maryland, at 7031 Columbia Gateway Drive,

Columbia, Maryland 21046, on the 22nd day of January,

2003.

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APPEARANCES:

SCOTT H. PHILLIPS, Esquire
For the Plaintiff

MICHAEL H. TOW, Esquire
For the Defendant

ALSO PRESENT: PETER ROGERS, JR.

Reported By: Dawn L. Venker

Scott Callnin - 1/22/03

<p style="text-align: right;">26</p> <p>1 rest of the technology and hospitality companies into 2 downward trends. Certainly not as deep as most 3 companies were feeling it, but in the way of some of 4 the financial positions, cash available, and that sort 5 of thing, I don't know what the standing was at that 6 time.</p> <p>7 Q Was there any discussion about concessions 8 that Sagent might be able to make to make this 9 transaction more attractive to MICROS?</p> <p>10 A There would definitely be fairly deep 11 discounting involved off of their regular retail 12 pricing.</p> <p>13 Q Anything else along those lines?</p> <p>14 A That Sagent would assist us in selling had 15 been the understanding of the relationship going back 16 for a number of years. That we were 50-50 partners on 17 this project, and that they put in their equal time on 18 helping us to sell to various clients as well.</p> <p>19 Q You say that went back a number of years. 20 Was that specifically discussed at this June 6th 21 meeting?</p>	<p style="text-align: right;">28</p> <p>1 we'll mark as Number 2, please.</p> <p>2 (Callnin Deposition Exhibit Number 2 was 3 marked by the reporter.)</p> <p>4 MR. PHILLIPS: For the record, Exhibit 5 Number 2 reflects MICROS Bates Numbers 5 through 10.</p> <p>6 Q If you would take a moment to look through 7 that, if you would, sir, MICROS Bates number 5 through 8 10.</p> <p>9 Mr. Callnin, feel free to look at all of 10 that. I can tell that most of my questions will be on 11 page 9, but feel free to look at all of it.</p> <p>12 MR. TOW: You should just look at all of it 13 to understand what you are looking at.</p> <p>14 Q Ready to proceed? As I said, let me ask 15 you turn to page 9, which I think you have already 16 done. Let me ask you to look at the bottom e-mail 17 there. It's a February 8th, 2001 e-mail from you to 18 Mr. VanVeelen. Do you see that one?</p> <p>19 A Yes.</p> <p>20 Q And I think -- correct me if I'm wrong -- 21 this reflects what we were talking about a little bit</p>
<p style="text-align: right;">27</p> <p>1 A Yes. Yes. The idea that Sagent would help 2 to sell the product was discussed.</p> <p>3 Q And tell me who was involved in that 4 conversation and who said what?</p> <p>5 A Primarily that would have been Dan 6 VanVeelen, as he was the main contact as far as the 7 product was concerned, and he would have the feel for 8 what leads they'd have. And he would have an opinion 9 as well that he did put into the conversation about 10 future client activity. The numbers that we might 11 expect to -- projects we might expect to go into as 12 well.</p> <p>13 Q Is it your contention that MICROS has paid 14 to Sagent any portion of the \$136,000 reflected on both 15 the purchase order as well as the price quote provided 16 earlier to MICROS by Sagent?</p> <p>17 MR. TOW: Objection as to form.</p> <p>18 Q Did you understand the question?</p> <p>19 A Yes. I understand, and I do not believe 20 that any portion of this amount has been paid.</p> <p>21 Q Let me hand you the next document which</p>	<p style="text-align: right;">29</p> <p>1 earlier with regard to deletion of the maintenance 2 support aspect of the initial invoice as well as the 3 reconfiguration of the mix of product. Is that your 4 understanding?</p> <p>5 A That's right.</p> <p>6 Q And if you look at the e-mail above that, 7 which is Mr. VanVeelen's reply to that of that same 8 date, it appears that Sagent is amenable to those 9 changes. Is that your understanding?</p> <p>10 A Yes.</p> <p>11 Q And those changes would in turn reduce the 12 amount of the invoice from the initial 136,000 down to 13 112,000. Is that your understanding?</p> <p>14 A That's right.</p> <p>15 Q Is it your contention that MICROS has paid 16 to Sagent any portion of that 112,000?</p> <p>17 A I do not believe any portion of that has 18 been paid.</p> <p>19 Q Let me ask you to take a look at -- it is 20 in that same document. If you'd turn to page 6. If 21 you look a little more than halfway down at the close</p>

8 (Pages 26 to 29)

<p style="text-align: right;">30</p> <p>1 of that e-mail, you say, "Thanks, Dan. Scott Callnin," 2 and then there is your phone number. Do you see that? 3 A Yes. 4 Q If you look to the very paragraph right 5 above that, "And I will honestly push very hard on this 6 end." Do you see that? 7 A The one just above? 8 Q Correct. 9 A Yes. 10 Q That indicates that as of the date of that 11 e-mail, which is reflected on the previous page, of 12 October 15th, 2001, you were still trying to get Sagent 13 paid for the \$112,000 invoice. Is that your 14 understanding? 15 A Was trying to get the invoices changed and 16 for the outstanding accounting issues to be cleared up. 17 Q When you say the invoices changed, tell me 18 what you mean by that. 19 A Although we had had verbal agreement 20 probably sometime not too long after the initial 21 meeting in June 6th, 2000 about making the changes to</p>	<p style="text-align: right;">32</p> <p>1 Q A few minutes ago you said that in addition 2 to trying to get the invoices changed, you were trying 3 to get some accounting issues cleared up. I think that 4 was your phrase. What do you mean by that? 5 A We had several different fronts that had 6 their own separate accounting paperwork generated, and 7 they had been mixed in with one another. Invoices 8 improperly being assigned to one project versus 9 another. Sagent had I think two or three pretty large 10 turnovers in their finance department, and so at least 11 three different times over the year between our 12 meetings with this and about the winter of 2002 I had 13 to go through -- go through every invoice that was ever 14 generated, every payment that was listed from our 15 finance department in regard to the invoices, match 16 them up, and explain to Sagent where some of their 17 holes were in their paperwork and accounting. And then 18 get back to our finance department about what should be 19 or shouldn't be issued in the way of payments towards 20 those invoices. 21 Q When you said some of the holes in the</p>
<p style="text-align: right;">31</p> <p>1 the software mix, and then we didn't have a formal 2 writing of the objectives until February 8th, we did 3 not see -- even though there was on that same date 4 acceptance of the proposal, we did not see an invoice 5 for well over a year that reflected the types of 6 changes that we are talking about. 7 Q So you were looking to get from Sagent an 8 invoice which reflected the agreement that you all had 9 reached in terms of reconfiguring the product mix and 10 deleting the maintenance and support aspect? 11 A Correct. 12 Q And as of February 8th, 2001, MICROS had 13 not received such an amended invoice? 14 A We hadn't. 15 Q But you mentioned sometime about a year or 16 more than a year later you ultimately did. 17 A Yes, we did. 18 Q And do you recall when that was? 19 A I believe that was about November of 2001. 20 Would have been a few months after that, putting it in 21 the winter of 2002.</p>	<p style="text-align: right;">33</p> <p>1 Sagent invoicing or paperwork, am I correct in 2 understanding that those reflected projects that had 3 nothing to do with this particular transaction? 4 A That's correct. Although some of the 5 transactions or some of the invoices were mistakenly 6 assumed to be transactions from those other projects. 7 At one point, notably the \$24,000 that was an original 8 line item on the original purchase order in question 9 here -- 10 Q Exhibit Number 1? 11 A -- had been assumed -- yes. That's 12 right. -- had been assumed to be annual support for one 13 of our first clients. I indicate in this e-mail of 14 October 15th that it was an incorrect billing. 15 Q As of October 15th, 2001, was there any 16 other issue, apart from your need for a revised 17 invoice, that reflected the reconfigured product mix 18 and the deletion of the maintenance and support 19 component? Anything other than that that precluded 20 MICROS from paying that \$112,000 to Sagent? Were you 21 looking for anything else?</p>

<p style="text-align: right;">58</p> <p>1 who worked in the receiving department during that time 2 frame? 3 A No. 4 Q Did you ever personally see the software 5 that Sagent delivered to MICROS? 6 A Yes. 7 Q When did you see it? 8 A I can't recall even very closely when it 9 did arrive. It was, as best I can recall, sometime in 10 the fall of 2000. 11 Q And at that time was your office in 12 Beltsville? 13 A I believe we moved -- two years ago, no. 14 Three years ago. Yes, I believe. No. I believe we 15 were here in this location. Fall of 2000 we were here 16 at this location. 17 Q Were you physically here when you saw the 18 software for the first time? 19 A Yes. 20 Q Can you describe for me what it looked 21 like? Was it open? Was it in packaging?</p>	<p style="text-align: right;">60</p> <p>1 been multiple. 2 Q I think you said that the disk, or disks 3 were shrink wrapped at that time, right? 4 A Yes. 5 Q And you took them out of not the shrink 6 wrap, but the mailing package? 7 A Correct. 8 Q And put them on a shelf in your office? 9 A That's right. 10 Q Did you or anyone else at your direction 11 make copies of either the disk or disks that were 12 contained therein? 13 A No. They were never removed from the 14 shrink wrap. 15 Q How long did they stay on the shelf in your 16 office? 17 A Probably about fourteen months. Again, I 18 don't have a good recollection of exactly when I 19 received them or when I turned them over. 20 Q And to whom did you turn them over 21 ultimately?</p>
<p style="text-align: right;">59</p> <p>1 A It was delivered actually to me in my 2 office. I opened the mailing box, and the software 3 manuals and disks were shrink wrapped, and I put that 4 on my shelf in my office. 5 Q So it was initially delivered to MICROS, 6 Beltsville, correct? 7 A That's right. 8 Q And then there is some sort of internal 9 delivery procedure within the company whereby it made 10 its way from Beltsville to Columbia? 11 A Correct. 12 Q You mentioned multiple disks. How many 13 were there? 14 A I don't recall. It may have been one 15 because I knew it's their practice to put all the 16 various software on one disk and just provide a 17 different key for what they wanted to unlock on the 18 disk. Though there may have been documentation disks 19 or tutorial discs as well, or perhaps portions of what 20 was delivered might have been on a second disk. I 21 can't remember. It might have been one. It might have</p>	<p style="text-align: right;">61</p> <p>1 A To Michael Tow. 2 Q And that was approximately fourteen months 3 after they arrived in your office in the fall -- did 4 you say the fall of 2000? Yeah. 5 A That would be about right. 6 Q Did you turn all of that material over to 7 Mr. Tow at one time? 8 A Yes. That's right. 9 Q Did he return to you some months later and 10 retrieve from you additional materials provided by 11 Sagent? 12 A I don't recall if he did. 13 Q Do you have an understanding of what 14 Mr. Tow did with the materials he retrieved from you? 15 A I believe he returned them to Sagent. 16 Q Do you have an understanding as to why? 17 A I believe that was to show them -- to 18 return it in the form it came. Was to show them that 19 we hadn't ever used the software. 20 Q But I mean why was it returned at all? 21 A At the time that it was asked from me and I</p>